

GUIDELINE D-6
(formerly 07-09)

**COMPATIBILITY BETWEEN INDUSTRIAL
FACILITIES AND SENSITIVE LAND USES**

Legislative Authority:

*Environmental Protection Act, RSO 1990, Section 14
Environmental Assessment Act, RSO 1990, Section
5(3)
Planning Act, RSO 1990, Sections 2 (a) (b) (c) (f)
(g) (h), 17(9), 22(3), 41(4) and 51(3)
Condominium Act, RSO 1990, Section 50(3)
Niagara Escarpment Planning & Development Act, RSO
1990, Section 9*

Responsible Director:

Director, Environmental Planning & Analysis Branch

Last Revision Date:

July 1995

Table of Contents

SYNOPSIS

1.0 INTRODUCTION

1.1 Objective

1.2 Scope

- 1.2.1 Sensitive Land Uses
- 1.2.2 Industrial Land Uses
- 1.2.3 Non-Stationary Industrial Facilities
- 1.2.4 Other Facilities

1.3 Land Uses Compatible with Industrial Facilities

1.4 Approach

2.0 DEFINITIONS

Amenity Area

Class I Industrial Facility

Class II Industrial Facility

Class III Industrial Facility

Fugitive Emissions

Industry, Industrial Land Use of Industrial Facility

Infilling

Redevelopment

3.0 APPLICATION

4.0 IMPLEMENTATION

4.1 Influence Area Concept

- 4.1.1 Potential Influence Areas for Industrial Land Uses
- 4.1.2 Actual Influence Areas for Industrial Land Uses
- 4.1.3 Influence Area Reduced Through Industrial Controls

4.2 Land Use Planning

4.2.1 Purpose of General Land Use Plans

4.2.2 Determining Permitted Uses Within Industrial Land Use Designations

- 4.2.3 Existing and Committed Industrial Land Use
 - 4.2.4 On-Site Separation Distance
 - 4.2.5 Off-Site Separation Distance
- 4.3 Recommended Minimum Separation Distance
- 4.4 Measuring Separation Distance
- 4.4.1 General Land Use Plans
 - 4.4.2 Site Specific Plans
 - 4.4.3 Zoning/Site Plan Control (Industrial Lands)
 - 4.4.4 Ancillary Land Uses (Sensitive Land Use)
 - 4.4.5 Vacant Industrial Land
 - 4.4.6 Changing Industrial Uses
- 4.5 Commenting on Land Use Proposals
- 4.5.1 Considerations When a Change in Land Use is Proposed Within an Influence Area or Potential Influence Area
 - 4.5.2 Separation Distance Greater than the Potential Influence Area
 - 4.5.3 Irreconcilable Incompatibilities
- 4.6 Studies
- 4.6.1 Noise
 - 4.6.2 Dust
 - 4.6.3 Odour
- 4.7 Mitigation
- 4.8 Legal Agreements
- 4.9 Financial Assurance
- 4.10 Redevelopment, Infilling & Mixed Use Areas
- 4.10.1 Official Status
 - 4.10.2 Zoning
 - 4.10.3 Feasibility Analysis
 - 4.10.4 New Use of Existing Buildings
 - 4.10.5 Public Consultation
 - 4.10.6 Environmental Warnings for Sensitive Land Uses
 - 4.10.7 Phased/Sequential Development
 - 4.10.8 Site Clean Up & Decommissioning
- 4.11 Accessory Residential Uses

5.0 REFERENCE DOCUMENTS

APPENDICES:

- APPENDIX A:** INDUSTRIAL CATEGORIZATION CRITERIA
- APPENDIX B:** RELATIONSHIP BETWEEN MINISTRY CERTIFICATE OF APPROVAL PROCESS & THE PLANNING PROCESS
- APPENDIX C:** SEPARATION DISTANCES (SECTION VIEW)
SEPARATION DISTANCES (PLAN VIEW)
- APPENDIX D:** MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS
BULLETIN NO. 91003, "ENVIRONMENTAL WARNINGS/
RESTRICTIONS"

SYNOPSIS

This guideline is intended to be applied in the land use planning process to prevent or minimize future land use problems due to the encroachment of sensitive land uses and industrial land uses on one another. The guideline is a direct application of Ministry Guideline D-1, "Land Use Compatibility" (formerly Policy 07-03).

This guideline encourages informed decision-making for Ministry staff as well as land use approval authorities and consultants, and assists in determining compatible mixed land uses and compatible intensification of land uses. The guideline is intended to apply when a change in land use is proposed, and the range of situations are set out in Section 2.0 "Application" of Guideline D-1. Responsibilities and various implementation techniques are discussed in Procedure D-1-1, "Land Use Compatibility: Implementation".

Adequate buffering of incompatible land uses is intended to supplement, not replace, controls which are required by legislation for both point source and fugitive emissions at the facility source. These emissions, which are difficult to control on-site, under all circumstances, all of the time, are associated with normal operating procedures. Appendix B contains information on the Ministry's legislative requirements (e.g. Certificates of Approval) which may apply to industrial facilities.

The Ministry shall not be held liable for municipal planning decisions that disregard Ministry policies and guidelines. When there is a contravention of Ministry legislation, Ministry staff shall enforce compliance.

Nothing in this guideline is intended to alter or modify the definition of "adverse effect" in the *Environmental Protection Act*.

1.0 INTRODUCTION

1.1 Objective

The objective of this guideline is to prevent or minimize the encroachment of sensitive land use upon industrial land use and vice versa, as these two types of land uses are normally incompatible, due to possible adverse effects on sensitive land use created by industrial operations.

To assist planning authorities in achieving the objective,

Appendix A of this guideline categorizes industrial facilities into three Classes according to the objectionable nature of their emissions, their physical size/scale, production volumes and/or the intensity and scheduling of operations. One or more of these factors may cause an adverse effect.

1.2 Scope

1.2.1 Sensitive Land Uses

For the purposes of this guideline, (i.e. where industry is concerned) sensitive land use may include:

- ! recreational uses which are deemed by the municipality or provincial agency to be sensitive; and/or
- ! any building or associated amenity area (i.e. may be indoor or outdoor space) which is not directly associated with the industrial use, where humans or the natural environment may be adversely affected by emissions generated by the operation of a nearby industrial facility. For example, the building or amenity area may be associated with residences, senior citizen homes, schools, day care facilities, hospitals, churches and other similar institutional uses, or campgrounds.

See also Section 4.4.4, "Ancillary Land Uses (Sensitive Land Use)" for more information on the types of uses, the land areas and the related activities affected by this guideline.

NOTE: Residential land use shall be considered sensitive 24 hours/day.

1.2.2 Industrial Land Uses

The guideline applies to all types of proposed, committed and/or existing industrial land uses which have the potential to produce point source and/or fugitive air emissions such as noise, vibration, odour, dust and others, either through normal operations, procedures, maintenance or storage activities, and/or from associated traffic/transportation.

This guideline also considers ground borne vibration, but does not deal with other emissions into the soil or ground and surface water. These other matters are addressed through the *Environmental Protection Act (EP Act)*, in particular Regulation 346 and Regulation 347, the *Ontario Water*

Resources Act (OWR Act) in general, and the Municipal Industrial Strategy for Abatement (MISA).

1.2.3 Non-Stationary Industrial Facilities

This guideline is not intended to apply to non-stationary industrial facilities such as a portable asphalt plant.

1.2.4 Other Facilities

This guideline does not apply to the following provincial, municipal or private facilities, land uses or related activities, nor to any on-site industrial-type facilities associated with them, except as noted below:

- ! sewage treatment facilities;
- ! landfills or dumps, transfer stations and other waste management facilities and waste processing facilities that require a Waste Certificate of Approval (e.g. facilities for waste oil refining, waste wood chipping and materials recovery facilities [MRFs]);
- ! agricultural operations;
- ! roadways (except for ancillary transportation facilities and transportation-related activities for an industrial land use including shipping and receiving);
- ! airports;
- ! railways (but it does apply to railway yards and other ancillary rail facilities); and
- ! pits and quarries (However, in the absence of site specific studies, this guideline should be utilized when sensitive land use encroaches on an existing pit and/or quarry. In these situations the appropriate criteria are the potential influence area and recommended minimum separation distance for a Class III industrial facility as set out in Sections 4.1.1 and 4.3 of this guideline.).

A list of publications which deal with land use compatibility for some of these land uses is provided in Procedure D-1-2, "Land Use Compatibility: Specific Applications".

1.3 Land Uses Compatible with Industrial Facilities

The land uses listed in Section 1.2.4 above are normally compatible with industrial facilities.

1.4 Approach

The general approach in Section 3.0 of Guideline D-1: "Land Use

"Compatibility" shall be followed to protect incompatible land uses from each other.

2.0 DEFINITIONS

NOTE: Definitions in addition to those below are provided in Procedure D-1-3, "Land Use Compatibility: Definitions".

Amenity Area

An outdoor space or facility that is used for the enjoyment of persons residing in or utilizing any building(s) on the premises.

Class I Industrial Facility

A place of business for a small scale, self contained plant or building which produces/stores a product which is contained in a package and has low probability of fugitive emissions. Outputs are infrequent, and could be point source or fugitive emissions for any of the following: noise, odour, dust and/or vibration. There are daytime operations only, with infrequent movement of products and/or heavy trucks and no outside storage. See Appendix A of this guideline for classification criteria and examples to categorize a specific industry.

Class II Industrial Facility

A place of business for medium scale processing and manufacturing with outdoor storage of wastes or materials (i.e. it has an open process) and/or there are periodic outputs of minor annoyance. There are occasional outputs of either point source or fugitive emissions for any of the following: noise, odour, dust and/or vibration, and low probability of fugitive emissions. Shift operations are permitted and there is frequent movement of products and/or heavy trucks during daytime hours. See Appendix A of this guideline for classification criteria and examples to categorize a specific industry.

Class III Industrial Facility

A place of business for large scale manufacturing or processing, characterized by: large physical size, outside storage of raw and finished products, large production volumes and continuous movement of products and employees during daily shift operations. It has frequent outputs of major annoyance and there is high probability of fugitive emissions. See Appendix A of this guideline for classification criteria and examples to categorize a specific industry.

Fugitive Emissions

Reasonably expected/predictable contaminant occurrences associated with normal operational practices and procedures (e.g. materials handling or outdoor storage) of industrial facilities, which are generally difficult to practically control at the source or on-site. These emissions are not point sources (i.e. not from stacks or vents). Fugitive emissions are from all sources. These emissions may include odour, noise, vibration and particulate such as dust. Emissions from a breakdown are also not considered 'fugitive'. Breakdown emissions would be covered under a Certificate of Approval contingency plan, or are considered to be a 'spill'.

Industry, Industrial Land Use or Industrial Facility

A facility or activity relating to: the assemblage and/or storage of substances/goods/raw materials; their processing and/or manufacturing; and/or the packaging and shipping of finished products. Industrial facilities are further refined through categorization into 3 Classes in this guideline (see Appendix A of this guideline).

Infilling

Development on a vacant lot or an underdeveloped lot within a built-up area; not redevelopment/re-use.

Redevelopment

Where existing land uses are being phased out and replaced by another type of designated land use as part of a land use plan or proposal which has been substantiated by studies and is in accordance with a municipal official plan policy or other formally approved plan.

3.0 APPLICATION

The information set out Section 2.0 of Guideline D-1, "Land Use Compatibility" shall apply for this guideline also.

4.0 IMPLEMENTATION

Areas of Responsibility for Ministry Staff or the Delegated Authority, Municipalities and Other Planning Authorities and Proponents are identified in Procedure D-1-1, Sections 1, 2 and 3 respectively.

See Procedure D-1-1, "Land Use Compatibility: Implementation" also for general information on legislative and administrative tools.

4.1 Influence Area Concept

4.1.1 Potential Influence Areas for Industrial Land Uses

The Ministry has identified, through case studies and past experience, the following potential influence areas (i.e. areas within which adverse effects may be experienced) for industrial land uses (Illustrated in Appendix C):

Class I - 70 metres*

Class II - 300 metres*

Class III - 1000 metres*

* See Section 4.4, "Measuring Separation Distance" also.

4.1.2 Actual Influence Areas for Industrial Land Uses

The actual influence area (overall range within which an adverse effect would be or is experienced) for a particular facility is site-specific, and may be defined within, or in exceptional circumstances (see Section 4.5.2, Separation Distance Greater than the Potential Influence Area"), beyond the potential influence area either before, or where applicable, after buffers have been used to reduce, eliminate or otherwise intercept adverse effects.

In the absence of specific substantiating information (normally obtained through technical studies - see Section 4.6, "Studies") which identifies an actual influence area, the potential influence areas set out in Section 4.1.1 of this guideline shall be used.

4.1.3 Influence Area Reduced Through Industrial Controls

Mitigation at the industrial source, if it affects the criteria considered in Appendix A, may enable an industry to be categorized as a lesser Class (e.g. from a Class II to a Class I), thereby reducing the minimum separation distance requirements set out in Section 4.3, "Recommended Minimum Separation Distances". For example, a rendering plant can be an extremely noxious use, but an enzyme digester can make it "cleaner".

In cases where the separation distance is reduced through other buffering techniques, where feasible the Ministry recommends some site-specific notification (e.g. spot zoning or requirement for re-zoning by the municipality) to deal with future changes in use which would not normally require re-zoning.

4.2 Land Use Planning

4.2.1 Purpose of General Land Use Plans

Impacts from industrial sources relate to operating and maintenance procedures rather than general land use. Land use documents normally do not control the operation of a land use, as the operational details are not normally known when lands are designated for industrial use, and most operational aspects cannot be controlled by municipalities through the land use planning process.

As well, municipal official plans (O.P.s) give general policy direction. Official plans and associated policies have no power of enforcement. There is no allowance for 'performance' zoning. Therefore, it is difficult to calculate actual influence areas at the time the O.P. is contemplated. Uses within a given designation or zoning could have totally different influence areas.

4.2.2 Determining Permitted Uses Within Industrial Land Use Designations

Permitted uses should be based on operational aspects (e.g. plant emissions, hours of operation, traffic movement) and mitigation employed. Zoning by-laws, however, do not normally use such factors in the definition of permitted uses. Therefore, it shall be necessary to consult Appendix A of this guideline, to determine permitted uses within a general land use designation.

4.2.3 Existing and Committed Industrial Land Use

When there are existing and committed industrial uses, the Ministry recommends that the category designation of "Class I", "Class II" or "Class III", according to Appendix A of this policy, be indicated in the land use plans by the approval authority.

Plan approval agencies are encouraged to delineate all potential influence areas or, where known, the actual influence areas, around existing and committed industrial land uses within their jurisdiction, to be used as a 'flag' when a change in land use is proposed within them.

This should be done on a scaled land use plan or map, and included in an easily accessible document, such as an official plan schedule.

NOTE #1: The Canadian Urban Institute is producing a guide

to the creation and use of municipal historical inventories which includes a recommended approach to documenting the types and locations of industries and other potentially polluting activities.

NOTE #2: It would be advisable to include locations of former industrial facilities as well, since decommissioning and soil clean up may be required for site re-use. See Section 4.10.8, "Site Clean Up and Decommissioning" also.

4.2.4 On-Site Separation Distance

There is merit in providing a required separation distance on the facility site. However, there may be a change in industrial land use that does not require a change in zoning, but which nevertheless produces a different influence area not covered off by the existing on-site buffer area.

Therefore, when separation distance is provided partially or entirely on-site, the Ministry recommends that where feasible, some site-specific notification (e.g. spot zoning or requirement for re-zoning by the municipality) is put in place to ensure future changes in use which would not normally require re-zoning will comply with this guideline. The same problem could occur when a buffer area is provided on the sensitive site.

4.2.5 Off-Site Separation Distance

When the separation distance extends beyond the facility/sensitive site boundary or the industrial/sensitive zoned or designated lands, the intervening lands may be of a use or activity compatible with both the facility and the sensitive land use.

For example, depending upon the amount of intervening space, uses could include: warehousing, various commercial uses that relate to types of industries or the neighbouring lands, open/green space, road allowance or, for Class III and Class II industrial uses, Class I industrial uses. If a lower Class of industrial use is used, there must still be adequate separation and/or buffering as established in this guideline to avoid or eliminate adverse effects on any sensitive land uses in the vicinity.

4.3 Recommended Minimum Separation Distances

No incompatible development other than that identified in Section 4.10, "Redevelopment, Infilling and Mixed Use Areas" should occur

in the areas identified below and illustrated in Appendix C, even if additional mitigation for adverse effects, as discussed in Section 4.2 of Procedure D-1-1, "Types of Buffers", is provided:

Class I - 20 metres minimum separation distance*

Class II - 70 metres minimum separation distance*

Class III - 300 metres minimum separation distance*

* See Section 4.4, "Measuring Separation Distance" also.

These minimums are based on Ministry studies and historical complaint data. They also make allowance for the fact that conventional zoning classifications usually permit a broad range of uses with varying potential to create land use conflicts.

4.4 Measuring Separation Distance

Depending upon the situation, separation distances may be measured from different points:

4.4.1. General Land Use Plans

Measurement shall be from the area(s) designated for industrial use to the area(s) designated for sensitive land use. This would apply for such matters as municipal official plans and Ministry of Natural Resources District Land Guidelines.

4.4.2 Site Specific Plans

Measurement shall normally be from the closest existing, committed or proposed property/lot line of the industrial land use to the property/lot line of the closest existing, committed or proposed sensitive land use. This approach provides for the full use and enjoyment of both the sensitive land use and the industrial properties. See Sections 4.4.3 and 4.4.4 for exceptional situations.

4.4.3 Zoning/Site Plan Control (Industrial Lands)

Where site-specific zoning or site plan control precludes the use of the setback for any activity associated with the industrial use that could create an adverse effect such as shipping and receiving or outside storage/stockpiling of materials (e.g. front yard must be landscaped, and functions as a buffer), then the setback can be included as part of the measurement, rather than measuring from the industrial property line.

NOTE: This approach could restrict future expansion of existing land uses.

On-site buffers could be required by a municipality through zoning by-law setback requirements in industrial subdivisions, but this may not be practical, as the provision of very deep lots would be necessary. See Section 4.2.4, "On-Site Separation Distance" also. The use of other forms of mitigation may have to wait until a specific industry and/or sensitive land use has been identified/established.

4.4.4 Ancillary Land Uses (Sensitive Land Use)

For sensitive land uses, where the established use of on-site lands are not of a sensitive nature, such as a parking lot servicing a hospital, the land area comprising the parking lot may be included within the separation distance (i.e. measure from where the actual sensitive activities occur).

NOTE: This approach could restrict future expansion of existing land uses. See Section 4.2.4, "On-Site Separation Distance" also.

4.4.5 Vacant Industrial Land

Where there is no existing industrial facility within the area designated/zoned for industrial land use, determination of the potential influence area shall be based upon a hypothetical "worst case scenario" for which the zoned area is committed. Therefore, Ministry staff or the delegated authority shall use the outside range of the potential influence area to determine an appropriate separation distance. See Section 4.2.2, "Determining Permitted Uses Within Industrial Land Use Designations" also.

4.4.6 Changing Industrial Uses

Where an influence area has been established based upon existing industrial land uses, it will be the responsibility of the local municipality to restrict, through zoning or any other available means, the types of future industrial uses that can occur, so that they are compatible with the influence area used.

NOTE: Zoning by-laws cannot control the level of emissions produced (related to specific products) or technology used,

hours of operation or traffic movements. It is difficult to correlate zoning by-laws with the industrial classifications set out in Appendix A, and therefore site-specific/spot zoning or a requirement for re-zoning by the municipality may be necessary to ensure that the establishment of new industrial uses comply with this guideline. See Section 4.2.2, "Determining Permitted Uses Within Industrial Land Use Designations" also.

4.5 Commenting on Land Use Proposals

4.5.1 Considerations When a Change in Land Use is Proposed Within an Influence Area or Potential Influence Area

The potential influence areas, or where known, the actual influence areas (see Section 4.1 of this guideline) should act as a 'flag', and no sensitive land uses shall be permitted within the actual or potential influence areas of Class I, II or III industrial land uses, without evidence to substantiate the absence of a problem. When studies are needed to identify problems and mitigative measures, see Section 4.6, "Studies".

When a land use proposal places sensitive land use beyond a facility's potential influence area, or where known, actual influence area, the Ministry shall not normally object to the change in land use on the basis of land use compatibility. For exceptional situations, see Section 4.5.2 "Separation Distance Greater than the Potential Influence Area".

4.5.2 Separation Distance Greater than the Potential Influence Area

In exceptional circumstances the Ministry shall recommend separation distances greater than the outer limit of the potential influence areas identified in Section 4.1.1 of this guideline. In such cases, the Ministry shall demonstrate the need for greater distance, such as historical data for similar facilities. Studies (see Section 4.6) may be required even if a separation distance beyond the potential influence area is proposed.

4.5.3 Irreconcilable Incompatibilities

When impacts from industrial activities cannot be mitigated or prevented to the level of a trivial impact (i.e. no adverse effects), new development, whether it be an

industrial facility or a sensitive land use, shall not be permitted.

There may be situations where development or redevelopment can be phased until such time that an adverse effect would no longer exist (e.g. the facility ceases to operate or the problem is rectified by new technology).

4.6 Studies

Air quality studies for noise, dust and odour should be provided by the proponent to the approving authority.

NOTE: Studies shall be provided prior to Ministry staff commenting on draft approval, to see if draft approval can be supported (in principle).

4.6.1 Noise

Noise shall be addressed through Ministry Publication LU-131 for all situations applicable to this guideline.

4.6.2 Dust

Contaminant emission sources can be classified as point sources or fugitive sources. Most facilities will produce both point source and fugitive emissions, and it is difficult to allocate emissions to one or the other source.

Regulation 346 sets out standards for contaminants, including suspended particulate matter and dust fall. The document entitled "General Information: Certificates of Approval (Air)" that is referenced in Appendix B provides information on the approval requirements and procedures. Details for assessing emissions from point sources such as stacks and vents, and standards and interim standards are also provided.

Even if Regulation 346 standards are met at the property line of the industrial site, there may still be complaints from neighbouring land uses because: (a) dispersion modelling is not 100% accurate and it cannot be guaranteed that point source emissions will be controlled 100% of the time; and (b) the standards, which are based upon acceptable risk with regard to health, odour and vegetation, are based on 1/2 hour averages, and at some point within a 1/2 hour there may be a high level of emissions.

Emissions from fugitive sources such as dust from traffic

and storage piles are more difficult to quantify, and a plan in itself to minimize fugitive emissions also may not be 100% effective. The Ministry is preparing an interim guideline that addresses areas such as measuring and minimizing fugitive emissions. Therefore, separation of incompatible land uses will help to minimize potential adverse effects from fugitive emissions.

4.6.3 Odour

Odorous contaminants are particularly difficult to control on-site. Although the contaminants emitted may meet the Ministry's standards and interim standards, experience indicates that complaints may still be received from residents living in proximity to the industry, for the reasons set out in Section 4.6.2. Emissions of odorous contaminants may result in off-site odour problems which could constitute an 'adverse effect'. An 'adverse effect' is a violation of Section 14 of the *Environmental Protection Act*. Stack testing under a worst case scenario, odour panel tests and odour control equipment may be required to minimize odour concerns.

4.7 Mitigation

Additional mitigation measures (see Procedure D-1-1, "Land Use Compatibility: Implementation", Section 4.2, "Types of Buffers") may need to be incorporated on either the development lands or the surrounding properties, at the expense of the developer, where the industrial facility is operating in compliance with legislated Ministry requirements.

4.8 Legal Agreements

When mitigative controls are to be installed on surrounding properties, the local municipality or other approving authority should require an agreement between the developer and the affected property owners, to ensure mitigation of adverse effects to the greatest degree possible.

The legal agreement between the developer and other affected parties to ensure adequate mitigation should be reviewed and endorsed by Ministry staff and/or the delegated authority prior to development approval.

4.9 Financial Assurance

The Ministry recommends that bonds be required by the approving authority to ensure that mitigation will be carried out.

4.10 Redevelopment, Infilling & Mixed Use Areas

It may not be possible to achieve the recommended minimum separation distances set out in Section 4.3 of this guideline in areas where infilling, urban redevelopment and/or a transition to mixed use is taking place.

The following requirements shall apply if this Ministry or a delegated authority is to consider proposals for urban redevelopment, infilling and/or a transition to mixed use within less than the Ministry's recommended separation distances set out in Section 4.3 of this guideline:

4.10.1 Official Status

Such proposals must be in accordance with official plan policy or a formal planning approval process, with the boundaries of the redevelopment, infilling or mixed use area clearly defined by the planning authority.

4.10.2 Zoning

The Ministry or delegated authority shall only consider redevelopment, infill and mixed use proposals which put industrial and sensitive land uses together within less than the recommended minimum separation distances (see Section 4.3), if the zoning is use specific (i.e. only the existing or proposed industrial or sensitive use is permitted by the municipality or other approving authority), or if planning considerations are based on the "worst case scenario" based on permitted uses in the industrial zoning by-law.

4.10.3 Feasibility Analysis

When a change in land use is proposed for either industrial or sensitive land use, less than the minimum separation distance set out in Section 4.3 may be acceptable subject to either the municipality or the proponent providing a justifying impact assessment (i.e. a use specific evaluation of the industrial processes and the potential for off-site impacts on existing and proposed sensitive land uses). Mitigation is the key to dealing with less than the minimum to the greatest extent possible.

The overall feasibility of the proposal, from a land use compatibility perspective, should be based on the anticipated adverse effects from each specific industry, and the effectiveness of proposed mitigative measures to lessen impacts on sensitive land uses within the context of planning for the area.

The Ministry or delegated authority shall require the following in order to make an assessment for allowing less than the recommended minimum separation distance:

- ! Detailed mapping showing the area subject to the proposed development and all industrial facilities and any other sources of adverse effects (e.g. rail lines);
- ! Mapping shall also indicate all vacant properties currently zoned and/or designated for industrial use along with relevant excerpts from the official plan and/or zoning by-law to indicate the full range of permitted uses. Attempts shall also be made to predict the types and levels of adverse impact that would result in a "worst case scenario" should an industrial use be developed upon any of the vacant parcels.
- ! Assessment of the types and levels of contaminant discharges being generated by current industrial facilities, including those associated with transportation facilities which serve the industries.
- ! Based upon actual and anticipated impacts, necessary mitigative measures should be identified based upon technical assessments. Noise and other technical studies shall be submitted to appropriate Ministry staff for review. See Sections 4.6 "Studies" and 4.7, "Mitigation" for more details.
- ! An indication shall be given as to the methods by which the mitigative measures (approved by the land use authority) will be implemented, i.e. the types of agreements that must be entered into. See Section 4.8, "Legal Agreements" also.
- ! Where mitigative measures are to be applied off-site to an existing industrial facility, the proponent shall demonstrate that the industrial facility has no objection to the proposed use or to the addition of the necessary mitigative measures. Implementation of approved mitigation measures shall be required as a condition of draft approval.
- ! Proponents should demonstrate to the approving authority that no objections to the proposed use have been raised by area residents, industries, etc. See Section 4.10.5, "Public Consultation".

4.10.4 New Use of Existing Buildings

The requirement for a feasibility analysis identified in Section 4.10.3 above shall apply as well where a new use is proposed for an existing building.

4.10.5 Public Consultation

When development is proposed at less than the recommended minimum distances identified in Section 4.3, the approving authority is encouraged to require public consultation with all land owners within the influence area or potential influence area of the industrial facility/facilities.

4.10.6 Environmental Warnings for Sensitive Land Uses

When the new development is sensitive, the Ministry recommends that a warning of anticipated nuisance effects be included in any offers of purchase and sale. A means of notifying ensuing purchasers should be determined by the local municipality. A warning may be included in a document which can be registered on title according to the Ministry of Consumer and Commercial Relations Bulletin No. 91003, "Environmental Warnings/Restrictions" (Appendix D).

4.10.7 Phased/Sequential Development

When industry is being phased out as part of a large-scale plan, consideration may be given to staging redevelopment and/or infilling to coincide with the closure of those industries which create a significant impact on the proposed sensitive land use(s).

4.10.8 Site Clean Up & Decommissioning

Guideline C-15 (former Ministry Policy 14-17), "Guidelines for the Clean Up of Contaminated Sites in Ontario" may apply in conjunction with re-use of industrial properties. In such instances, the approving authority should ensure that the level of clean up is appropriate for both the re-use of the site and the protection of sensitive land use receptors.

NOTE: Municipal O.P.s should establish a policy to indicate when site rehabilitation (especially for mixed use, redevelopment and infilling) is required. A policy should also require that there be a qualified individual on-site to oversee the rehabilitation. It is recommended that this requirement be incorporated in a development agreement between the developer and the municipality.

4.11 Accessory Residential Uses

Some municipalities may permit "accessory residential uses" in industrial official plan designations or zoning by-laws (i.e. the owner's residence is on the same property as the business/industry). When the residence will no longer be occupied by the on-site business/industry owner, any re-use of the residence shall be subject to the requirements set out in Section 4.10, "Redevelopment, Infilling & Mixed Use", particularly Section 4.10.4, "New Use of Existing Buildings" and Section 4.10.8, "Site Clean Up & Decommissioning".

Where there are provisions for "accessory residential uses", it may be appropriate for municipalities to prohibit such residential uses where none exist, through an official plan amendment or a site-specific zoning-bylaw (see Section 4.10.2, "Zoning").

5.0 REFERENCE DOCUMENTS

- (a) Guideline C-15, "Guidelines for the Clean Up of Contaminated Sites in Ontario"
- (b) Guideline D-1, "Land Use Compatibility"
- (c) Procedure D-1-1, "Land Use Compatibility: Implementation"
- (d) Procedure D-1-2, "Land Use Compatibility: Specific Applications"
- (e) Procedure D-1-3, "Land Use Compatibility: Definitions"
- (f) Publication LU-131, "Noise Assessment Criteria in Land Use Planning"